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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the First Amended Accusation
12 Against:

Case No. *2012-530*

FIRST AMENDED ACCUSATION

13 **GREGORY SCOTT WALTER**
14 **522 Marble Arch Ave.**
San Jose, CA 95136

15 **Registered Nursing License No. 594498**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered
21 Nursing, Department of Consumer Affairs.

22 2. On or about February 6, 2002, the Board of Registered Nursing issued Registered
23 Nursing License Number 594498 to Gregory Scott Walter (Respondent). The Registered Nursing
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on June 30, 2013, unless renewed.

26 **JURISDICTION**

27 3. This First Amended Accusation is brought before the Board of Registered Nursing
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1 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
4 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
6 Nursing Practice Act.

7 5. Section 2761 of the Code states:

8 "The board may take disciplinary action against a certified or licensed nurse or deny an
9 application for a certificate or license for any of the following:

10 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

11 ...

12 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
13 functions, and duties of a registered nurse, in which event the record of the conviction shall be
14 conclusive evidence thereof.

15 ..."

16 6. Section 2762 of the Code states:

17 "In addition to other acts constituting unprofessional conduct within the meaning of this
18 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
19 chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
21 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
22 administer to another, any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
24 defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
26 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
27 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
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1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of
9 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this
10 section, in which event the court order of commitment or confinement is prima facie evidence of
11 such commitment or confinement.

12 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
13 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
14 section."

15 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
20 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
21 licensee or to render a decision imposing discipline on the license.

22 9. Section 118, subdivision (b), of the Code provides that the expiration of a license
23 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
24 within which the license may be renewed, restored, reissued or reinstated.

25 COST RECOVERY

26 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
27 administrative law judge to direct a licensee found to have committed a violation or violations of
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3
4 FIRST CAUSE FOR DISCIPLINE
5 (CRIMINAL CONVICTION)

6 11. Respondent is subject to disciplinary action under sections 2761(a), 2761(f), 2762(c),
7 and/or 490 in that on or about October 4, 2011, in a criminal proceeding entitled *The People of*
8 *the State of California v. Gregory Scott Waltor* in Santa Clara Superior Court, Case Number
9 C1113963, Respondent was convicted by his plea of nolo contendere of violating Vehicle Code
10 section 23152(a) (driving while under the influence of alcohol). Respondent was sentenced to
11 serve probation for three years, to complete a First Offender Program, and ordered to pay fines in
12 the amount of \$2,389.00. The circumstances of the conviction are that on or about July 25, 2011,
13 at Vista Park Drive and Branham in San Jose, Respondent was arrested for drunk driving. He
14 was observed to be driving erratically by another motorist. Respondent failed field sobriety tests
15 and his blood alcohol measured .247%.

16 SECOND CAUSE FOR DISCIPLINE
17 (USING ALCOHOL IN A MANNER DANGEROUS TO SELF OR OTHERS)

18 12. Respondent is subject to disciplinary action under section 2762(b) in that on or about
19 July 25, 2011, at Vista Park Drive and Branham in San Jose, Respondent was arrested for drunk
20 driving. He was observed to be driving erratically by another motorist. Respondent failed field
21 sobriety tests and his blood alcohol measured .247%.

22 THIRD CAUSE FOR DISCIPLINE
23 (UNPROFESSIONAL CONDUCT - DOMESTIC VIOLENCE)

24 13. Respondent is subject to disciplinary action under Business and Professions Code
25 section 2761(a) in that he was physically abusive to his girlfriend and arrested. The
26 circumstances are that on or about February 5, 2005 in San Jose, California, Respondent had an
27 altercation with his girlfriend after consuming a large amount of alcohol. Respondent tackled his
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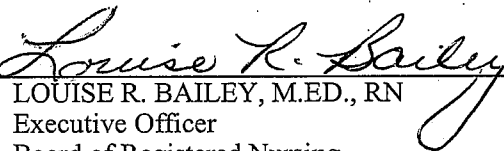
1 girlfriend to the ground, placed his hand over her mouth to muffle her screams, and choked her
2 with his forearm until she began to lose consciousness. Respondent was arrested but not charged.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Revoking or suspending Registered Nursing License Number 594498, issued to
7 Gregory Scott Walter;
- 8 2. Ordering Gregory Scott Walter to pay the Board of Registered Nursing the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3;
- 11 3. Taking such other and further action as deemed necessary and proper.
- 12
13

14 DATED: August 16, 2012


15 LOUISE R. BAILEY, M.ED., RN
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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